



PROFESSIONAL SERVICES AGREEMENT

Design Services

PECOS SURFACE WATER TREATMENT PLANT LABORATORY AND ADMINISTRATION BUILDING HVAC RENOVATIONS

Project No. WA2106.201

Council Date: August 12, 2021 Item No.

THIS AGREEMENT ("Agreement") is made and entered into on the ____ day of _____, 2021 ("Effective Date"), by and between City of Chandler, an Arizona municipal corporation, ("City"), and **Dick & Fritsche Design Group, Inc.**, an Arizona corporation, ("Consultant") (City and Consultant may individually be referred to as "Party" and collectively referred to as "Parties").

RECITALS

A. City proposes to engage Consultant to provide Design Services for **PECOS SURFACE WATER TREATMENT PLANT LABORATORY AND ADMINISTRATION BUILDING HVAC RENOVATIONS** project as more fully described in **Exhibit "A"**, which is attached to and made a part of this Agreement by this reference.

B. Consultant is ready, willing, and able to provide the services described in **Exhibit "A"** for the compensation and fees set forth and as described in **Exhibit "B"**, which is attached to and made a part of this Agreement by this reference.

C. City desires to contract with Consultant to provide these services under the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises contained in this Agreement, City and Consultant agree as follows:

SECTION I--CONSULTANT'S SERVICES

Consultant must perform the services described in **Exhibit "A"** to City's satisfaction within the terms and conditions of this Agreement and within the care and skill that a person who provides similar services in Chandler, Arizona exercises under similar conditions. All work or services furnished by Consultant under this Agreement must be performed in a skilled and workmanlike manner. All fixtures, furnishings, and equipment furnished by Consultant as

part of the work or services under this Agreement must be new, or the latest model, and of the most suitable grade and quality for the intended purpose of the work or service.

SECTION II--PERIOD OF SERVICE

Consultant must perform the services described in **Exhibit "A"** for the term of this Agreement. Unless amended in writing by the Parties, the Agreement term expires **300** calendar days after the Notice to Proceed (NTP) Date.

SECTION III--PAYMENT OF COMPENSATION AND FEES

Unless amended in writing by the Parties, Consultant's compensation and fees as more fully described in **Exhibit "B"** for performance of the services approved and accepted by City under this Agreement must not exceed **\$375,889** for the full term of the Agreement. Consultant may not increase any compensation or fees under this Agreement without the City's prior written consent. Consultant must submit monthly requests for payment of services approved and accepted during the previous billing period and must include, as applicable, detailed invoices and receipts, a narrative description of the tasks accomplished during the billing period, a list of any deliverables submitted, and any subconsultant's or supplier's actual requests for payment plus similar narrative and listing of their work. Consultant must submit an Application and Certification for Payment Sheet with the monthly request for payment to: CapitalProjects.Payables@chandleraz.gov. Payment for those services negotiated as a lump sum will be made in accordance with the percentage of the work completed during the preceding billing period. Services negotiated as a not-to-exceed fee will be paid in accordance with the work effort expended on the service during the preceding month. All requests for payment must be submitted to City for review and approval. City will make payment for approved and accepted services within 30 calendar days of City's receipt of the request for payment. Consultant bears all responsibility and liability for any and all tax obligations that result from Consultant's performance under this Agreement.

SECTION IV--CITY'S OBLIGATIONS

As part of Consultant's services under this Agreement, City will provide furnished items, services, or obligations as detailed in **Exhibit "D"**.

SECTION V--GENERAL CONDITIONS

5.1 Notices. Unless otherwise provided herein, demands under this Agreement must be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally served on the party to whom notice is to be given, or (b) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid and properly addressed as follows:

To City:	City of Chandler Public Works & Utilities Department Attn: CIP City Engineer P.O. Box 4008, Mail Stop 407 Chandler, AZ 85244-4008 Phone: 480-782-3343 Email: andrew.goh@chandleraz.gov
With a Copy to:	Project Manager City of Chandler Public Works & Utilities Department P.O. Box 4008, Mail Stop 407 Chandler, AZ 85244-4008
To Consultant:	Dick & Fritsche Design Group, Inc. Mailing Address: 4545 E McKinley St., Phoenix, AZ 85008 Physical Address (if different than Mailing Address) Statutory Agent Name: A-B Law Services Company, LLC Statutory Agent Physical Address: 4600 E Shea Blvd., Phoenix, AZ 85028 Statutory Agent Mailing Address: (if different than mailing address)
	Consultant's Authorized Project Representative Name: Chad Billings Title: Vice President Phone: 602-761-5123 Email: cbillings@dfdg.com

5.2 Records/Audit. Records of Consultant's direct personnel payroll, reimbursable expenses pertaining to this Agreement and records of accounts between City and Consultant must be kept on the basis of generally accepted accounting principles and must be made available to City and its auditors for up to three years following City's final acceptance of the services under this Agreement (this requirement is increased to five years if construction of this project is federally funded). City, its authorized representative, or any federal agency, reserves the right to audit Consultant's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate this Agreement and any amendments. City reserves the right to decrease the total amount of Agreement price or payments made under this Agreement or request reimbursement from Consultant following final contract payment on this Agreement if, upon audit of Consultant's records, the audit discloses Consultant has provided false, misleading, or inaccurate cost and pricing data. Consultant will include a similar provision in all of its contracts with subconsultants who provide services under the Agreement to ensure that City, its authorized representative, or the appropriate federal agency, has access to the subconsultants' records to verify the accuracy of all cost and pricing data. City reserves the right to decrease Contract price or payments made on this Agreement or request reimbursement from Consultant following final payment on this Agreement if the above provision is not included in subconsultant agreements, and one or more subconsultants refuse to allow City to audit their records to

payments made on this Agreement or request reimbursement from Consultant following final payment on this Agreement if the above provision is not included in subconsultant agreements, and one or more subconsultants refuse to allow City to audit their records to verify the accuracy and appropriateness of all cost and pricing data. If, following an audit of this Agreement, the audit discloses Consultant has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, Consultant will be liable for reimbursement of the reasonable, actual cost of the audit.

5.3 Alteration in Character of Work. Whenever an alteration in the character of work results in a substantial change in this Agreement, thereby materially increasing or decreasing the scope of services, cost of performance, or Project schedule, the work will be performed as directed by City. However, before any modified work is started, a written amendment must be approved and executed by City and Consultant. Such amendment must not be effective until approved by City. Additions to, modifications, or deletions from this Agreement as provided herein may be made, and the compensation to be paid to Consultant may accordingly be adjusted by mutual agreement of the Parties. It is distinctly understood and agreed that no claim for extra services or materials furnished by Consultant will be allowed by City except as provided herein, nor must Consultant do any work or furnish any materials not covered by this Agreement unless such work is first authorized in writing. Any such work or materials furnished by Consultant without prior written authorization will be at Consultant's own risk, cost, and expense, and Consultant hereby agrees that without written authorization Consultant will make no claim for compensation for such work or materials furnished.

5.4 Termination. City and Consultant hereby agree to the full performance of the covenants contained herein, except that City reserves the right, at its discretion and without cause, to terminate or abandon any service provided for in this Agreement, or abandon any portion of the Project for which services have been performed by Consultant. In the event City abandons or suspends the services, or any part of the services as provided in this Agreement, City will notify Consultant in writing and immediately after receiving such notice, Consultant must discontinue advancing the work specified under this Agreement. Upon such termination, abandonment, or suspension, Consultant must deliver to City all drawings, plans, specifications, special provisions, estimates and other work entirely or partially completed, together with all unused materials supplied by City. Consultant must appraise the work Consultant has completed and submit Consultant's appraisal to City for evaluation. City may inspect Consultant's work to appraise the work completed. Consultant will receive compensation in full for services performed to the date of such termination. The fee will be paid in accordance with Section III of this Agreement, and as mutually agreed upon by Consultant and City. If there is no mutual agreement on payment, the final determination will be made in accordance with the "Disputes" provision in this Agreement. However, in no event may the fee exceed the fee set forth in Section III of this Agreement nor as amended in accordance with Section "Alteration in Character of Work." City will make the final payment within 60 days after Consultant has delivered the last of the partially completed items and the Parties agree on the final fee. If City is found to have improperly terminated the Agreement for cause or default, the termination will be converted to a termination for convenience in accordance with the provisions of this Agreement.

5.5 Indemnification. To the extent permitted by law, the Consultant ("Indemnitor") must indemnify, save and hold harmless City and its officers, officials, agents and employees ("Indemnitee") from any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees and costs of claim processing, investigation and litigation) ("Claims") caused or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Consultant or any of its owners, officers, directors, agents, employees, or subconsultants in connection with this Agreement. This indemnity includes any claim or amount arising out of or recovered under workers' compensation law or on account of the failure of Consultant to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Consultant must indemnify Indemnitee from and against any and all Claims, except those arising solely from Indemnitee's own negligent or willful acts or omissions. Consultant is responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Agreement, Consultant agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to this Agreement. The obligations of Consultant under this provision survive the termination or expiration of this Agreement.

5.6 Insurance Requirements. Consultant must procure insurance under the terms and conditions and for the amounts of coverage set forth in **Exhibit "C"** against claims that may arise from or relate to performance of the work under this Agreement by Consultant and its agents, representatives, employees, and subconsultants. Consultant and any subconsultant must maintain this insurance until all of their obligations have been discharged, including any warranty periods under this Agreement. These insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. City in no way warrants that the minimum limits stated in **Exhibit "C"** are sufficient to protect Consultant from liabilities that might arise out of the performance of the work under this Agreement by Consultant, Consultant's agents, representatives, employees, or subconsultants. Consultant is free to purchase such additional insurance as may be determined necessary.

5.7 Cooperation and Further Documentation. Consultant agrees to provide City such other duly executed documents as may be reasonably requested by City to implement the intent of this Agreement.

5.8 Successors and Assigns. City and Consultant each bind itself, its partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Agreement. Neither City nor Consultant may assign, sublet, or transfer its interest in this Agreement without the written consent of the other party. In no event may any contractual relation be created between any third party and City.

5.9 Disputes. In any dispute arising out of an interpretation of this Agreement or the duties required not disposed of by agreement between Consultant and City, the final determination at the administrative level will be made by City Engineer.

5.10 Completeness and Accuracy of Consultant's Work. Consultant must be responsible for

the completeness and accuracy of Consultant's services, data, and other work prepared or compiled under Consultant's obligation under this Agreement and must correct, at Consultant's expense, all willful or negligent errors, omissions, or acts that may be discovered. Correction of errors disclosed and determined to exist during any construction of the project on architectural or engineering drawings and specifications must be accomplished by Consultant. The cost of the design necessary to correct those errors attributable to Consultant and any damage incurred by City as a result of additional construction costs caused by such engineering or architectural errors will be chargeable to Consultant and will not be considered a cost of the Work. The fact that City has accepted or approved Consultant's work will in no way relieve Consultant of any of Consultant's responsibilities.

5.11 Reporting. Written monthly reports, along with updated work schedules, will be made by Consultant in the format prescribed by City. These reports will be delivered to City per schedule. When requested by City, Consultant will attend Council meetings and provide finished documents including correspondence for Council action, supporting charts, graphs, drawings and colored slides of same.

5.12 Withholding Payment. City reserves the right to withhold funds from Consultant's payments up to the amount equal to the claims City may have against Consultant until such time that a settlement on those claims has been reached.

5.13 City's Right of Cancellation. The Parties acknowledge that this Agreement is subject to cancellation by City under the provisions of Section 38-511, Arizona Revised Statutes (A.R.S.).

5.14 Independent Consultant. For this Agreement Consultant constitutes an independent contractor. Any provisions in this Agreement that may appear to give City the right to direct Consultant as to the details of accomplishing the work or to exercise a measure of control over the work means that Consultant must follow the wishes of City as to the results of the work only. These results must comply with all applicable laws and ordinances.

5.15 Project Staffing. Prior to the start of any work under this Agreement, Consultant must submit to City detailed resumes of key personnel that will be involved in performing services prescribed in the Agreement. City hereby acknowledges its acceptance of such personnel to perform services under this Agreement. At any time hereafter that Consultant desires to change key personnel while performing under the Agreement, Consultant must submit the qualifications of the new personnel to City for prior approval. Key personnel include, but are not limited to, principals-in-charge, project manager, and project Consultant. Consultant will maintain an adequate and competent staff of qualified persons, as may be determined by City, throughout the performance of this Agreement to ensure acceptable and timely completion of the Scope of Services. If City objects, with reasonable cause, to any of Consultant's staff, Consultant must take prompt corrective action acceptable to City and, if required, remove such personnel from the Project and replace with new personnel agreed to by City.

5.16 Consultants or Subconsultants. Prior to beginning the work, Consultant must furnish City for approval the names of consultants or subconsultants to be used under this Agreement. Any subsequent changes are subject to City's written prior approval.

5.17 Force Majeure. If either party is delayed or prevented from the performance of any act required under this Agreement by reason of acts of God or other cause beyond the control and without fault of the Party (financial inability excepted), performance of that act may be excused, but only for the period of the delay, if the Party provides written notice to the other Party within ten days of such act. The time for performance of the act may be extended for a period equivalent to the period of delay from the date written notice is received by the other Party.

5.18 Compliance with Federal Laws. Consultant understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it. Consultant agrees to comply with these laws in performing this Agreement and to permit City to verify such compliance.

5.19 No Israel Boycott. By entering into this Agreement, Consultant certifies that Consultant is not currently engaged in, and agrees for the duration of the Agreement, not to engage in a boycott of Israel as defined by state statute.

5.20 Legal Worker Requirements. A.R.S. § 41-4401 prohibits City from awarding a contract to any consultant who fails, or whose subconsultants fail, to comply with A.R.S. § 23-214(A). Therefore, Consultant agrees Consultant and each subconsultant it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A. A breach of this warranty will be deemed a material breach of the Agreement and may be subject to penalties up to and including termination of the Agreement. City retains the legal right to inspect the papers of any Consultant's or subconsultant's employee who provides services under this Agreement to ensure that Consultant and subconsultants comply with the warranty under this provision.

5.21 Lawful Presence Requirement. A.R.S. §§ 1-501 and 1-502 prohibit City from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.

5.22 Covenant Against Contingent Fees. Consultant warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the Chandler City Council, or any City employee has any interest, financially, or otherwise, in Consultant's firm. For breach or violation of this warrant, City may annul this Agreement without liability or, at its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

5.23 Non-Waiver Provision. The failure of either Party to enforce any of the provisions of this Agreement or to require performance of the other Party of any of the provisions hereof must not be construed to be a waiver of such provisions, nor must it affect the validity of this

Agreement or any part thereof, or the right of either Party to thereafter enforce each and every provision.

5.24 Disclosure of Information Adverse to City's Interests. To evaluate and avoid potential conflicts of interest, Consultant must provide written notice to City, as set forth in this Section, of any work or services performed by Consultant for third parties that may involve or be associated with any real property or personal property owned or leased by City. Such notice must be given 7 business days prior to commencement of the services by Consultant for a third party, or 7 business days prior to an adverse action as defined below. Written notice and disclosure must be sent in accordance with Section 6.7 above. An adverse action under this Agreement includes, but is not limited to: (a) using data as defined in the Agreement acquired in connection with this Agreement to assist a third party in pursuing administrative or judicial action against City; or (b) testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against City; or (c) using data to produce income for Consultant or its employees independently of performing the services under this Agreement, without the prior written consent of City. Consultant represents that except for those persons, entities, and projects identified to City, the services performed by Consultant under this Agreement are not expected to create an interest with any person, entity, or third party project that is or may be adverse to City's interests. Consultant's failure to provide a written notice and disclosure of the information as set forth in this Section constitute a material breach of this Agreement.

5.25 Data Confidentiality and Data Security. As used in the Agreement, "data" means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to Consultant or its subconsultants in the performance of this Agreement. The Parties agree that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to Consultant or its subconsultants in connection with Consultant's or its subconsultant's performance of this Agreement is confidential and proprietary information belonging to City. Except as specifically provided in this Agreement, Consultant or its subconsultants must not divulge data to any third party without City's prior written consent. Consultant or its subconsultants must not use the data for any purposes except to perform the services required under this Agreement. These prohibitions do not apply to the following data provided to Consultant or its subconsultants have first given the required notice to City: (a) data which was known to Consultant or its subconsultants prior to its performance under this Consultant or its subconsultants by a third party, who to the best of Consultant's or its subconsultants' knowledge and belief, had the legal right to make such disclosure and Consultant or its subconsultants are not otherwise required to hold such data in confidence; or (c) data which is required to be disclosed by virtue of law, regulation, or court order, to which Consultant or its subconsultants are subject. In the event Consultant or its subconsultants are required or requested to disclose data to a third party, or any other information to which Consultant or its subconsultants became privy as a result of any other contract with City, Consultant must first notify City as set forth in this Section of the request or demand for the data. Consultant or its subconsultants must give City sufficient facts so that City can be given an opportunity to first give its consent or take such action that City may

deem appropriate to protect such data or other information from disclosure. All data must continue to be subject to the confidentiality agreements of this Agreement. Consultant or its subconsultants assume all liability to maintain the confidentiality of the data in its possession and agrees to compensate City if any of the provisions of this Section are violated by Consultant, its employees, agents or subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. Consultant agrees that the requirements of this Section must be incorporated into all subagreements entered into by Consultant. A violation of this Section may result in immediate termination of this Agreement without notice.

5.26 Personal Identifying Information-Data Security. Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times by Consultant or its subconsultants. At a minimum, Consultant or its subconsultants must encrypt or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. In the event that data collected or obtained by Consultant or its subconsultants in connection with this Agreement is believed to have been compromised, Consultant or its subconsultants must immediately notify City contact. Consultant agrees to reimburse City for any costs incurred by City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach. Consultant agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Consultant. It is further agreed that a violation of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Consultant or its subconsultants under this Section must survive the termination of this Agreement.

5.27 Jurisdiction and Venue. This Agreement is made under, and must be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto must be brought in the courts located in Maricopa County, Arizona, and for this purpose, each Party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

5.28 Survival. All warranties, representations, and indemnifications by Consultant must survive the completion or termination of this Agreement.

5.29 Modification. Except as expressly provided herein to the contrary, no supplement, modification, or amendment of any term of this Agreement will be deemed binding or effective unless in writing and signed by the Parties.

5.30 Severability. If any provision of this Agreement or the application to any person or circumstance may be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application will not be affected and will be enforceable to the fullest

extent permitted by law.

5.31 Integration. This Agreement contains the full agreement of the Parties. Any prior or contemporaneous written or oral agreement between the Parties regarding the subject matter is merged and superseded.

5.32 Time is of the Essence. Time of each of the terms, covenants, and conditions of this Agreement is hereby expressly made of the essence.

5.33 Date of Performance. If the date of performance of any obligation or the last day of any time period provided for should fall on a Saturday, Sunday, or holiday for City, the obligation will be due and owing, and the time period will expire, on the first day after which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth in this Agreement, any performance provided for herein will be timely made if completed no later than 5:00 p.m. (Chandler time) on the day of performance.

5.34 Third Party Beneficiary. Nothing under this Agreement will be construed to give any rights or benefits in the Agreement to anyone other than City and Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and Consultant and not for the benefit of any other party.

5.35 Conflict in Language. All work performed must conform to all applicable City of Chandler codes, ordinances, and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and those in **Exhibit "A"**, the provisions in this Agreement prevail.

5.36 Document/Information Release. Documents and materials released to Consultant, which are identified by City as sensitive and confidential, are City's property. The document/material must be issued by and returned to City upon completion of the services under this Agreement. Consultant secondary distribution, disclosure, copying, or duplication in any manner is prohibited without City's prior written approval. The document/material must be kept secure at all times. This directive applies to all City documents, whether in photographic, printed, or electronic data format.

5.37 Exhibits. The following exhibits are made a part of this Agreement and are incorporated by reference:

Exhibit A - Scope of Services / Schedule

Exhibit B - Compensation and Fees

Exhibit C - Insurance Requirements

Exhibit D - Special Conditions

Exhibit E - Federal Requirements (if applicable)

5.38 Special Conditions. As part of the services Consultant provides under this Agreement, Consultant agrees to comply with and fully perform the special terms and conditions set forth in **Exhibit "D"**, which is attached to and made a part of this Agreement.

5.39 Non-Discrimination and Anti-Harassment Laws. Consultant must comply with all applicable City, state, and federal non-discrimination and anti-harassment laws, rules, and regulations.

5.40 Licenses and Permits. Beginning with the Effective Date and for the full term of this Agreement, Consultant must maintain all applicable City, state, and federal licenses and permits required to fully perform Consultant's services under this Agreement.

5.41 Warranties. Consultant must furnish a one-year warranty on all work and services performed under this Agreement. Consultant must furnish, or cause to be furnished, a two-year warranty on all fixtures, furnishings, and equipment furnished by Consultant, subconsultants or suppliers under this Agreement. Any defects in design, workmanship, or materials that do not comply with this Agreement must be corrected by Consultant (including, but not limited to, all parts and labor) at Consultant's sole cost and expense. All written warranties and redlines for as-built conditions must be delivered to City on or before City's final acceptance of Consultant's services under this Agreement.

5.42 Cooperative Purchasing Agreement (S.A.V.E. – Strategic Alliance for Volume Expenditures). In addition to City of Chandler and with the approval of Consultant, this Agreement may be extended for use by other municipalities, school districts, and government agencies of the State. Any such usage by other entities must be in accordance with the ordinance, charter, or procurement rules and regulations of the respective political entity.

5.43 Budget Approval into Next Fiscal Year. This Agreement will commence on the Effective Date and continue in full force and effect until it is terminated or expires in accordance with the provisions of this Agreement. The Parties recognize that the continuation of this Agreement after the close of the City's fiscal year, which ends on June 30 of each year, is subject to the City Council's approval of a budget that includes an appropriation for this item as an expenditure. The City does not represent that this budget item will be actually adopted. This determination is solely made by the City Council.

SIGNATURE PAGE TO FOLLOW

EXHIBIT "A"
SCOPE OF SERVICES/SCHEDULE



EXHIBIT 'A' – SCOPE OF SERVICES & SCHEDULE

1. PROJECT DESCRIPTION & SCOPE

- 1.1 Consultant will provide services for the design, permitting, development of construction documents, and specified construction administration for the City of Chandler Pecos Surface Water Treatment Plant (SWTP) Building Improvements (CIP#WA2106), located at 1475 East Pecos Road, Chandler, Arizona, all as more specifically described herein below.
- 1.2 The facility design may include, but not be limited to, interior retrofit upgrades to the building infrastructure to bring it to current standards, including mechanical and electrical services through the building and complete remodel of the existing water-testing laboratory.
- 1.3 The improvements will be in two separate design packages, as follows:
 - a. Design Package One: City of Chandler Pecos SWTP Building Improvements, Phase One Water-Wastewater Laboratory HVAC Systems Replacement and Comprehensive Remodel
 - b. Design Package Two: City of Chandler Pecos SWTP Building Improvements, Phase Two Overall Building HVAC Systems Renovation and Partial Remodel
- 1.4 Consultant will provide all design services for the Project including, but not limited to, normal architectural, structural, mechanical, and electrical engineering services.
- 1.5 Refer to Appendix 1 for full Project Description.

2. ASSIGNMENT

- 2.1 The design contract has been awarded to an architect based on their proposed personnel and specified consultants. Any deviations or substitutions of these team members must be pre-approved in writing by City. Those persons listed in Exhibit B will perform those portions of the work listed therein.

3. PROJECT SCHEDULE

- 3.1 Consultant must perform the services within the times set forth in the Production Schedule included herein and made a part hereof by reference.
- 3.2 Consultant must adhere to the Production Schedule described herein and such schedule may not be modified or deviated from without written consent of City. Consultant must revise and submit for review an updated schedule whenever it is demonstrated that the time for completion of the Project Design or of any of the partial completion points listed in the schedule is delayed by two weeks or more. Such adjusted schedule will include a written explanation stating the reasons for the change and a plan for getting back on schedule. Consultant must take all reasonable actions necessary to get the project back on schedule and City will cooperate to assist Consultant.
- 3.3 Production Schedule:
 - a. Design Package One: City of Chandler Pecos SWTP Building Improvements, Phase One Water-Wastewater Laboratory HVAC Systems Replacement and Comprehensive Remodel
 - i. Schematic Design – 3 weeks
 - a. Owner Review – 1 weeks
 - ii. Design Development – 4 weeks
 - a. Owner Review – 1 week
 - iii. Construction Documents – 6 weeks
 - a. Owner Review – 1 week
 - iv. Permitting – 4 weeks
 - v. Construction – 6 months
 - b. Design Package Two: City of Chandler Pecos SWTP Building Improvements, Phase Two Overall Building HVAC Systems Renovation and Partial Remodel
 - i. Schematic Design – 5 weeks

- a. Owner Review – 2 weeks
- ii. Design Development – 6 weeks
 - a. Owner Review – 2 weeks
- iii. Construction Documents – 7 weeks
 - a. Owner Review – 2 weeks
- iv. Permitting – 4 weeks
- v. Construction – 9 months

4. QUALITY CONTROL

- 4.1 Consultant must institute and comply with the Design Quality Control Plan attached hereto and made a part hereof by reference.
- 4.2 As a part of the project design Consultant will develop a quality control plan for the entire construction phase. This Quality Control Plan will establish what elements should and must be seen by each consultant during construction. Identify what is in the project, which will be required to have a UBC “special inspection” by the design engineer.

5. PRELIMINARY RESEARCH

- 5.1 As and for preliminary research before preparing the project design, Consultant will:
 - a. Perform a Document search for City policies, regulations, standards, design manuals, and requirements, etc. relevant to project.
 - b. Investigate existing conditions, make measured drawings, and verify accuracy of drawings or other information furnished by City.
 - c. Obtain As-Builts

6. SCHEMATIC DESIGN (30% DOCUMENT REVIEW):

- 6.1 Program Verification.
- 6.2 When the design is approximately thirty percent complete, Consultant must do the following:
 - a. Submit the project to City for a Development Standards review.
 - b. Submit to City’s Project Manager for comment in electronic format.
 - c. Collaborate with City to define their requirements for building systems. Including the preparation and updating of comment tracking logs for City Staff comments from B&F and W/WW Staff.
 - d. Prepare a construction cost estimate for verification with the budget and re-design as necessary to re-align the design with the construction budget according to the following Design Packages.
 - i. Design Package 1 – Laboratory should include the following:
 - a. Perform and document existing field conditions, create measured drawings and verify accuracy of drawings or other information furnished by the City.
 - b. Verify floor plan shown in basis of design, review equipment requirements and make necessary plan adjustments.
 - c. Interior design to include conceptual finishes and preliminary lab furniture / millwork layout.
 - d. Mechanical, electrical, and plumbing design to include basic schematic level design drawings showing the engineering systems intended for this project.
 - e. Provide a written narrative describing engineering systems intended for this project.
 - f. Structural design will include preliminary concepts supplemented by narratives.
 - g. Outline specifications.
 - h. DFDG and LSW will attend weekly meetings during this phase. Based on the project schedule in section A, 3 meetings are included in this phase. Other consultants will attend meetings as identified in their attached proposals.

- i. Progress deliverables during this phase will be informal and submitted as needed to move the project forward.
 - j. Final deliverable for this phase includes a schematic design set of drawings and narratives for any relevant scope not yet identified on the plans.
 - k. Value engineer the design cooperatively with the entire design team and the City's representatives. This effort will occur as early and effectively as possible and consist of a focus meeting addressing relationships of components, construction materials and building systems.
 - l. Re-design as necessary to re-align the design and the construction budget.
 - m. Conduct a full document set (plans and specs) review in the presence of all consultants and City representatives and any other stakeholders.
- ii. Design Package 2 – Main Building should include the following:
- a. Perform and document existing field conditions, create measured drawings and verify accuracy of drawings or other information furnished by the City.
 - b. Develop plans depicting scope of work including ceilings, walls and other items potentially impacted by mechanical equipment changes.
 - c. Interior design to include conceptual finishes for areas impacted by the work.
 - d. Mechanical, electrical, and plumbing design to include basic schematic level design drawings showing the engineering systems intended for this project.
 - e. Provide a written narrative outlining a VRF system with DOAS versus a VAV system with an air-cooled chiller. The narrative will describe each system, its advantages, and disadvantages, and its AHRI efficiency, along with LSW's recommendations. This will not include a life cycle cost analysis or estimates of probable construction costs.
 - f. Structural design will include preliminary concepts supplemented by narratives.
 - g. Outline specifications.
 - h. DFDG and LSW will attend weekly meetings during this phase. Based on the project schedule in section A, 5 meetings are included in this phase for DFDG and LSW. Other consultants will attend meetings as identified in their attached proposals.
 - i. Progress deliverables during this phase will be informal and submitted as needed to move the project forward.
 - j. Final deliverable for this phase includes a schematic design set of drawings and narratives for any relevant scope not yet identified on the plans.
 - k. Value engineer the design cooperatively with the entire design team and the City's representatives. This effort will occur as early and effectively as possible and consist of a focus meeting addressing relationships of components, construction materials and building systems.
 - l. Re-design as necessary to re-align the design and the construction budget.
 - m. Conduct a full document set (plans and specs) review in the presence of all consultants and City representatives and any other stakeholders.

7. DESIGN DEVELOPMENT (60% & 80% DOCUMENT REVIEW):

- 7.1 Based on the approved Schematic Design Documents and any adjustments authorized by City in the program, schedule or construction budget, Consultant must prepare, for approval by City, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. When the design is approximately sixty percent (60%) complete and again when the design is approximately eighty percent (80%) complete, Consultant must do the following:
- a. Allow and invite the Owner's Representative to attend the design coordination meetings virtual, as needed.
 - b. Collaborate with City to define their requirements for building systems. Including the preparation and updating of comment tracking logs for City Staff comments from B&F and W/WW Staff.
 - c. Create draft specifications compliant with City standards.
 - d. Prepare plans, elevations, sections, schedules, and notes as required to fix and describe the project as to architectural, mechanical, electrical, and special systems. An allowance will be kept for potential structural services.
 - e. Perform code reviews and implement requirements into the design documents according to City's adopted building construction codes.
 - f. Consultant is required to review and complete the City's Constructability Review Checklist. All applicable checklist items are required to be incorporated in the design documents.
 - g. Submit once to City's Project Manager for comment electronic drawing sets, specifications.
 - h. Schedule review meeting with plan check staff to discuss review comments. Clarify with the plan check staff what the design challenges are and decide the method in which they will be resolved.
 - i. Prepare a construction cost estimate for verification with the budget. Re-design as necessary to re-align the design with the construction budget according to the following Design Packages.
 - i. Design Package 1 – Laboratory:
 - a. Preliminary mechanical, plumbing and electrical plans including routing of mechanical duct mains, mechanical zoning layout and thermostat locations for review, routing of main plumbing utilities and routing of cable trays.
 - b. Engineering systems cut sheets for review.
 - c. Development of the floor plan, including wall types, dimensions, etc.
 - d. Prepare details for major wall assemblies and building components.
 - e. Interior elevations of showing proposed millwork and proposed interior finishes.
 - f. Reflected ceiling plans showing ceiling height and materials, and location of light fixtures
 - g. Development of structural plans.
 - h. Design development level specifications in book format.
 - i. DFDG will attend weekly meetings during this phase. Based on the project schedule in section A, 5 meetings are included in this phase. Consultants will attend meetings as identified in their attached proposals.
 - j. Progress deliverables during this phase will be informal and submitted as needed to move the project forward.
 - k. Final deliverable for this phase includes a design development package including drawings identified above and narratives for any relevant scope not yet identified on the plans.
 - i. Design Package 2 – Main Building:
 - a. Preliminary mechanical, plumbing and electrical plans showing all main engineering systems equipment locations and sizes. Equipment weights will be shown as needed for the structural engineer. MEP drawings to include routing of mechanical duct mains and mechanical zoning layout and thermostat locations for review.
 - b. Engineering cut sheets for review.
 - c. Development of the floor plan, including wall types, dimensions, etc.
 - d. Prepare details for major wall assemblies and building components.

- e. Interior elevations of showing proposed millwork and proposed interior finishes.
- f. Reflected ceiling plans showing ceiling height and materials, and location of light fixtures
- g. Development of structural plans.
- h. Design development level specifications in sheet format.
- i. DFDG will attend weekly meetings during this phase. Based on the project schedule in section A, 5 meetings are included in this phase for DFDG and LSW. Other consultants will attend meetings as identified in their attached proposals.
- j. Progress deliverables during this phase will be informal and submitted as needed to move the project forward.
- k. Final deliverable for this phase includes a design development package including drawings identified above and narratives for any relevant scope not yet identified on the plans.

8. CONSTRUCTION DOCUMENTS (98% DOCUMENT REVIEW):

- 8.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by City, Consultant must prepare, for approval by City, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project. When the design is approximately ninety eight percent (98%) complete Consultant must do the following:
- a. Prepare plans, elevations, sections, schedules, notes, and specifications as required to be able to bid and construct the project in its entirety.
 - b. Cover sheet to be provided by City by email in AutoCAD.
 - c. Provide City of Chandler with a copy of the AutoCAD files. Each building system must be “layered” to be able to isolate trades or engineering from architectural components or vice versa.
 - d. Submit to City’s Project Manager for comment electronic drawing sets, specifications, and comment tracking log
 - e. Electronic permit submittal
 - f. Based on the approved DD package, continue to develop the design and drawings to furnish a complete set of documents suitable for plan review, CMAR bidding and construction according to the Design Packages outlined below. Re-design as necessary to re-align the design with the construction budget.
 - i. Design Package 1 – Laboratory:
 - a. Prepare plans, elevations, sections, schedules, notes, and specifications as required to be able to bid and construct the project in its entirety.
 - b. Cover sheet to be provided by the City in AutoCAD format.
 - c. Coordinate the drawings and sheet specifications of all subconsultants and incorporate into the final CD package.
 - d. At the 95% completion level, submit a pre-final set of documents to the AHJ for plan review.
 - e. Make all necessary corrections and updates and submit the final 100% CD package for final review and bidding. Issue a PDF or other acceptable electronic format containing the complete CD package to Client and JOC for final printing of documents. Client will be responsible for printing of sets for bidding and construction, and distribution of plans.
 - f. DFDG will attend weekly meetings during this phase. Based on the project schedule in section A, 7 meetings are included in this phase for DFDG and LSW. Other consultants will attend meetings as identified in their attached proposals.
 - g. Provide the City of Chandler with AutoCAD and Revit files. Each building system must be “layered” to be able to isolate trades or engineering from architectural components or vice versa.
 - h. Provide document coordination of work performed by separate contractors or by City’s own forces.
 - i. Submit to the City’s Project Manager for comment two complete drawing sets, specifications, and structural calculations. Include original redline drawings and comments received from previous reviews along with a review summary indicating action taken.

- ii. Design Package 2 – Main Building:
 - a. Prepare plans, elevations, sections, schedules, notes, and specifications as required to be able to bid and construct the project in its entirety.
 - b. Cover sheet to be provided by the City in AutoCAD format.
 - c. Coordinate the drawings and sheet specifications of all subconsultants and incorporate into the final CD package.
 - d. At the 95% completion level, submit a pre-final set of documents to the AHJ for plan review.
 - e. Make all necessary corrections and updates and submit the final 100% CD package for final review and bidding. Issue a PDF or other acceptable electronic format containing the complete CD package to Client and JOC for final printing of documents. Client will be responsible for printing of sets for bidding and construction, and distribution of plans.
 - f. DFDG will attend weekly meetings during this phase. Based on the project schedule in section A, 7 meetings are included in this phase for DFDG and LSW. Other consultants will attend meetings as identified in their attached proposals.
 - g. Provide the City of Chandler with AutoCAD and Revit files. Each building system must be “layered” to be able to isolate trades or engineering from architectural components or vice versa.
 - h. Provide document coordination of work performed by separate contractors or by City’s own forces.
 - i. Submit to the City’s Project Manager for comment two complete drawing sets, specifications, and structural calculations. Include original redline drawings and comments received from previous reviews along with a review summary indicating action taken.

9. CONSTRUCTION SET (100% DOCUMENTS):

- 9.1 Submit bid documents to Development Services for building permit. All plans, calculations and specifications will be stamped. The specifications will be 8-1/2” x 11” and in electronic format. Plans will be electronic pdfs and electronically in Auto CAD.
- 9.2 Cover Sheet Electronically
- 9.3 Assist City in the evaluation of “substitutions and or-equals” and make a recommendation to accept or decline, during City negotiations with JOC firms.

EXHIBIT "B"
COMPENSATION AND FEES

EXHIBIT "B-1"
Lump Sum Cost Per Task

TASK DESCRIPTION		SUBTOTAL
Task 1.0 Project Description & Scope of Construction		
Task 2.0 Assignment		
Task 3.0 Project Schedule		\$ -
3.1	Production Schedule	\$ -
Task 4.0 Quality Control		\$ 1,940.00
4.1	Quality Control Plan	\$ 1,940.00
Task 5.0 Preliminary Research		\$ 2,300.00
5.1	Investigate Existing Conditions	\$ 2,300.00
Task 6.0 Schematic Design (30%)		\$ 15,380.00
6.1	Program Verification	\$ 3,360.00
6.2	Prepare 30% Schematic Design Set	\$ 12,020.00
Task 7.0 Design Development (60% & 80%)		\$ 22,025.00
7.1	Prepare 60% Design Development Set	\$ 22,025.00
Task 8.0 Construction Documents (98%)		\$ 24,930.00
8.1	Prepare 98% Construction Document Set	\$ 24,930.00
Task 9.0 Construction Set (100%)		\$ 3,410.00
9.1	Coordinate & Issue Permit Documents	\$ 1,500.00
9.2	Cover Sheet	\$ 410.00
9.3	RFIs / Substitution Requests	\$ 1,500.00
ALLOWANCES		\$ 108,217.00
13.1	Allowance for Printing Expenses at Direct Cost	\$ 8,000.00
13.2	Allowance for Structural Engineering	\$ 5,500.00
13.3	Allowance for Specification Writer	\$ 7,854.00
13.4	Allowance for MPE Engineering	\$ 61,908.00
13.5	Allowance for Cost Estimating Services	\$ 9,955.00
13.6	Owner's Allowance	\$ 15,000.00
TSUBTOTAL COST:		\$ 178,202.00

EXHIBIT "B-2"
Lump Sum Cost Per Task

TASK DESCRIPTION		SUBTOTAL
Task 1.0 Project Description & Scope of Construction		
Task 2.0 Assignment		
Task 3.0 Project Schedule		\$ -
3.1	Production Schedule	\$ -
Task 4.0 Quality Control		\$ 1,940.00
4.1	Quality Control Plan	\$ 1,940.00
Task 5.0 Preliminary Research		\$ 2,880.00
5.1	Investigate Existing Conditions	\$ 2,880.00
Task 6.0 Schematic Design (30%)		\$ 5,960.00
6.1	Program Verification	\$ 410.00
6.2	Prepare 30% Schematic Design	\$ 5,550.00
Task 7.0 Design Development (60% & 80%)		\$ 11,120.00
7.1	Prepare 60% Design Development Set	\$ 11,120.00
Task 8.0 Construction Documents (98%)		\$ 14,525.00
8.1	Prepare 98% Construction Document Set	\$ 14,525.00
Task 9.0 Construction Set (100%)		\$ 3,410.00
9.1	Coordinate & Issue Permit Documents	\$ 1,500.00
9.2	Cover Sheet	\$ 410.00
9.3	RFIs / Substitution Requests	\$ 1,500.00
ALLOWANCES		\$ 157,852.00
13.1	Allowance for Printing Expenses at Direct Cost	\$ 5,000.00
13.2	Allowance for Structural Engineering	\$ 3,300.00
13.3	Allowance for Specification Writer	\$ 4,114.00
13.4	Allowance for MPE Engineering	\$ 120,472.00
13.5	Allowance for Cost Estimating Services	\$ 9,966.00
13.6	Owner's Allowance	\$ 15,000.00
SUBTOTAL COST:		\$ 197,687.00

Total Project Cost \$375,889



Standard Hourly Rate Schedule

Effective 1 January 2021

Principal	\$205
Design Director	\$185
Interior Design Director	\$170
Sr. Project Manager	\$155
Project Manager	\$140
Project Architect / LEED Specialist.....	\$135
Sr. Project Designer / Construction Administrator / Graphic Designer	\$130
BIM Manager.....	\$115
Project Designer / Planner	\$100
Design Staff / Production Staff	\$90
Administrative Staff	\$80
Student Intern.....	\$60
Reimbursable Expense Markup	1.10
Markup for Sub-consultants	1.10

EXHIBIT "C"

INSURANCE REQUIREMENTS

1. General.

- 1.1 At the same time as execution of this Agreement, Consultant must furnish City a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City. Provided, however, the A.M. Best rating requirement will not be deemed to apply to required Workers' Compensation coverage.
- 1.2 Consultant and any of its subconsultants must procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- 1.3 The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- 1.4 City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Consultant from liabilities that might arise out of the performance of the Agreement services under this Agreement by Consultant, its agents, representatives, employees, subconsultants, and Consultant is free to purchase any additional insurance as may be determined necessary.
- 1.5 Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve Consultant from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- 1.6 Use of subconsultants: If any work is subcontracted in any way, Consultant must execute a written contract with subconsultant containing the same Indemnification Clause and Insurance Requirements as City requires of Consultant in this Agreement. Consultant is responsible for executing the Agreement with the subconsultant and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope and Limits of Insurance. Consultant must provide coverage with limits of liability not less than those stated below.

- 2.1 *Professional Liability.* If the Agreement is the subject of any professional services or work performed by Consultant, or if Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, Consultant must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone whose acts, mistakes, errors and omissions Consultant is legally liable, with a liability limit of \$1,000,000 each claim and \$2,000,000 all claims. In the event the Professional Liability

insurance policy is written on a "claims made" basis, coverage must extend for 3 years past completion and acceptance of the work or services, and Consultant, or its selected Design Professional will submit Certificates of Insurance as evidence the required coverage is in effect. The Design Professional must annually submit Certificates of Insurance citing that the applicable coverage is in force and contains the required provisions for a 3 year period.

2.2 *Commercial General Liability-Occurrence Form.* Consultant must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

2.3 *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:* Consultant must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Consultant owned, hired, and non-owned vehicles assigned to or used in the performance of Consultant's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

2.4 *Workers Compensation and Employers Liability Insurance:* Consultant must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

3. Additional Policy Provisions Required.

3.1 *Self-Insured Retentions or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by City. If not approved, City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to City, its officers, officials, agents, employees, and volunteers.

3.1.1. Consultant's insurance must contain broad form contractual liability coverage.

3.1.2. Consultant's insurance coverage must be primary insurance with respect to City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by City, its officers, officials, agents, and employees will be in excess of the coverage provided by Consultant and must not contribute to it.

3.1.3. Consultant's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- 3.1.4. Coverage provided by Consultant must not be limited to the liability assumed under the indemnification provisions of this Agreement.
- 3.1.5. The policies must contain a severability of interest clause and waiver of subrogation against City, its officers, officials, agents, and employees, for losses arising from Work performed by Consultant for City.
- 3.1.6. Consultant, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. Consultant must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
- 3.1.7. If a Certificate of Insurance is submitted as verification of coverage, City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement.

3.2. *Insurance Cancellation During Term of Contract/Agreement.*

- 3.2.1. If any of the required policies expire during the life of this Agreement, Consultant must forward renewal or replacement Certificates to City within 10 days after the renewal date containing all the required insurance provisions.
- 3.2.2. Each insurance policy required by the insurance provisions of this Agreement must provide the required coverage and must not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to City, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice must be sent directly to Chandler Law-Risk Management Department, Post Office Box 4008, Mailstop 628, Chandler, Arizona 85225. If any insurance company refuses to provide the required notice, Consultant or its insurance broker must notify City of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

3.3 *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:

- 3.3.1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, Consultant including City's general supervision of Consultant; Products and Completed operations of Consultant; and automobiles owned, leased, hired, or borrowed by Consultant.

- 3.3.2. City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by Consultant even if those limits of liability are in excess of those required by this Agreement.

EXHIBIT "D"
SPECIAL CONDITIONS

1. Contract Worker Access Controls, Badge and Key Access Requirements. A Contract Worker from Consultant's firm must not be allowed to begin work in any City facility without: (A) The prior completion and City's acceptance of the required background screening; and (8) when required, the Contract Worker's receipt of a City issued badge. A badge will be issued to a Contract Worker solely for access to City facility(s) to which the Contract Worker is assigned. Each Contract Worker who enters a City facility must use the badge issued to the Contract Worker.
2. Badges. After receipt of the badge application, the Contract Worker will proceed to the Badging Office for processing of the badge application and issuance of the badge. City will not process the badge application until the Contract Worker satisfies the required Background Screening (as defined herein). The Contract Worker must comply with all requirements and furnish all requested information as requested by the Badging Office. Any and all fees associated with security badging will be assessed in compliance with Chandler City Code §4-22.
3. Key Access Procedures. If the Contract Worker's services require keyed access to enter a City facility(s), a separate key issue/return form must be completed and submitted by Consultant for each key issued.
4. Stolen or Lost Badges or Keys. Consultant must report lost or stolen badges or keys to City immediately. A new badge application or key issue form must be completed and submitted along with payment of the applicable fees prior to issuance of a new badge or key.
5. Return of Badges or Keys. All badges and keys are the property of City and must be returned to City at the Badging Office within one (1) business day of when the Contract Worker's access to a City facility is no longer required to furnish the services under this Agreement. Consultant must collect a Contract Worker's badge and key(s) upon the termination of the Contract Worker's employment; when the Contract Worker's services are no longer required at the particular City facility(s); or upon termination, cancellation or expiration of this Agreement.
6. Consultant's default under this Section must include, but is not limited to the following: (1) Contract Worker gains access to a City facility(s) without the proper badge or key; (2) Contract Worker uses a badge or key of another to gain access to a City facility; (3) Contract Worker commences services under this Agreement without the proper badge, key or Background Screening; (4) Contract Worker or Consultant submits false information or negligently submits wrong information to City to obtain a badge, key or applicable Background Screening; or (5) Consultant fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement. Consultant acknowledges and agrees that the access

control, badge and key requirements in this Section are necessary to preserve and protect public health, safety and welfare. Accordingly, Consultant agrees to properly cure any default under this Section within three (3) business days from the date notice of default is sent by City. The parties agree that Consultant's failure to properly cure any default under this Section must constitute a breach of this Section. In addition to any other remedy available to City at law or in equity, Consultant must be liable for and must pay to City the sum of one thousand dollars (\$1,000.00) for each breach by Consultant of this Section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to City at the time and making of this Agreement in the event that Consultant breaches this Section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving City's actual damages in the event that Consultant breaches this Section. The parties further agree that three (3) breaches by Consultant of this Section arising out of any default within a consecutive period of three (3) months or three (3) breaches by Consultant of this Section arising out of the same default within a period of twelve (12) consecutive months will constitute a material breach of this Agreement by Consultant and City expressly reserves all of its rights, remedies and interests under this Agreement, at law and in equity including, but not limited to, termination of this Agreement.